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LIMITED PARTNERSHIPS BILL

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The key corporate changes



Her Majesty's Government of Gibraltar published the Limited Partnerships Bill (the "Bill") on 29th October 2020. The Bill is a welcomed revamp of the existing Limited Partnerships Act 1927 (the "1927 Act").

Although the Bill mostly mirrors the provisions in the 1927 Act (with a modern twist), it will introduce several interesting changes to the limited partnership regime. A brief synopsis of these change is set out in this document. Note: this summary does not cover the changes relating to funds.

1. Limited Partnerships will be able to choose whether to have a separate legal personality

Limited Partnerships already provide for flexibility by essentially being a hybrid between a partnership and a company. This flexibility will be enhanced further by allowing a limited partnership to choose whether to have a separate legal personality.

New limited partnerships will need to notify the Registrar of their election on registration. Existing limited partnerships will need to inform the Registrar of their choice within 3 months of the commencement of section 11 of the Bill.

2. Limited partners to play more active role

Currently limited partners must refrain from taking part in the management of the limited partnership if they wish to preserve their limited liability. Under the new Bill, Limited partners must still refrain from taking part in the management of the business of the limited partnership but will be able to take a more active role in the business. The Bill provides a list of permissible actions.

This is a notable change and will be welcomed by investors who wish to have more input in the administration of their investments.



3. Limited partners voting rights

Limited partners will have the opportunity to vote on the permissible actions. The voting rights of each partner shall be in proportion to such partner's partnership interests, unless otherwise provided in the limited partnership agreement.

The Bill also provides that decisions on ordinary matters connected with the business of the limited partnership may be decided by a majority of the partners. This is a reasonable threshold but may cause delays in decision making if there is disagreement between the limited partners.

Any variation to the rights and duties of partners or to the nature of the business must be approved by all partners.

4. Names of Limited Partnerships

The provisions dealing with a limited partnership's name have been extended and are included in the Bill's Schedule. The provisions are similar to those in the Companies Act 2006. This will provide limited partnerships with further guidance in respect of choosing, registering and changing its name.

5. Winding up of Limited Partnership with no general partner

Currently it is not clear what happens if a limited partnership is wound up when it has no general partner. The Bill clarifies that, where a limited partnership is dissolved at a time when the partnership does not have a general partner, the limited partners must appoint a person (who is not a limited partner) to wind up the limited partnership.

This is subject to any express or implied agreement between the limited partners as to the winding up of the affairs of the partnership.



The Bill is an example of effective modernisation of current legislation. The changes will not necessarily entice people to establish limited partnerships (except for those looking to set up a fund), however they will add to the existing reasons to establish a limited partnership, which include but are not limited to:

1. Unlike the articles of association of a company, a limited partnership agreement is not a public document. This allows the partners to keep the terms of their relationship private.
2. The 1927 Act is made up of 32 sections (and the Bill includes 44 sections). This is drastically less than the 490 sections in the Companies Act 2014 which apply to companies. Limited partnerships are given a greater amount of leeway to tailor their operational regulations to their respective needs.
3. Limited partners are granted limited liability unlike the partners of an ordinary partnership.
4. A limited partnership may be considered transparent for tax purposes which could allow limited partners to set off the losses of the partnership against their respective personal gains.

If you are thinking about setting up a limited partnership or would like further information on the content of this article, please contact Richard Buttigieg or Chloe Oppenheimer-Fa.



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